

CROSNER LEGAL, P.C.

Craig W. Straub (SBN 249032)
Zachary M. Crosner (SBN 272295)
9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
Tel: (866) 276-7637
Fax: (310) 510-6429
craig@crosnerlegal.com
zach@crosnerlegal.com

REESE LLP

Michael R. Reese (SBN 206773)
100 West 93rd Street, 16th Floor
New York, New York 10025
Telephone: (212) 643-0500
Facsimile: (212) 253-4272
mreese@reesellp.com

REESE LLP

George V. Granade (SBN 316050)
8484 Wilshire Boulevard, Suite 515
Los Angeles, California 90211
Telephone: (310) 393-0070
Facsimile: (212) 253-4272
ggranade@reesellp.com

Attorneys for Plaintiffs Mark Gonzalez and Donnie
Wesley and the Proposed Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

MARK GONZALEZ and DONNIE WESLEY
SR., individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

CHATTEM, INC.,

Defendant.

ISABELLE L. ORD (Bar No. 198224)
isabelle.ord@us.dlapiper.com
TIA Q. NGUYEN (Bar No. 338778)
tia.nguyen@us.dlapiper.com
DLA PIPER LLP (US)
555 Mission Street, Suite 2400
San Francisco, CA 94105-2933
Tel: 415.836.2500
Fax: 415.836.2501

KEARA M. GORDON (*pro hac vice*)
keara.gordon@us.dlapiper.com
HALEY D. TORREY (*pro hac vice*)
haley.torrey@us.dlapiper.com
DLA PIPER LLP (US)
1251 Avenue of the Americas, 27th Floor
New York, NY 10020-1104
Tel: 212.335.4632
Fax: 212.884.8632

Attorneys for Defendant Chattem, Inc.

CASE NO. 4:23-cv-00102-HSG

**STIPULATION AND ORDER
REGARDING PLAINTIFFS' THIRD
AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 6 and Civil Local Rule 6-2, Plaintiffs Mark Gonzalez (“Gonzalez”) and Donnie Wesley Sr. (“Wesley”) (together, “Plaintiffs”) and Defendant Chattem, Inc. (“Chattem”) (together, with Plaintiffs, the “Parties”), by and through their respective counsel, hereby stipulate and agree to the following:

WHEREAS, on January 9, 2023, Mr. Gonzalez filed a Class Action Complaint;

WHEREAS, on March 24, 2023, Plaintiffs filed a First Amended Complaint adding Mr. Wesley as a named plaintiff;

WHEREAS, in its motion to dismiss the First Amended Complaint, Chattem raised questions whether Plaintiffs had Article III standing;

WHEREAS, on November 21, 2023, the Court issued an Order on Chattem’s Motion to Dismiss First Amended Complaint (the “Order”) (Dkt No. 45), which, among other things, dismissed Mr. Wesley’s claims for a lack of standing, and provided Plaintiffs with “one final opportunity to amend their complaint to address [] jurisdictional defects....” (Dkt. No. 45 at 8);

WHEREAS, on December 21, 2023, Plaintiffs filed a Second Amended Complaint;

WHEREAS, in consenting to the filing of a Third Amended Complaint, Chattem does not waive any arguments and expressly reserves all rights, and Chattem states the following two points for the record:

- Chattem maintains that Plaintiffs did not adequately address their jurisdictional defects in their Second Amended Complaint; and
 - During the meet and confer process for the parties’ Joint Initial Case Management Statement on February 2, 2024, Plaintiffs’ counsel raised the possibility of replacing the current plaintiffs with new named plaintiffs, but did not do so, and Chattem objected;
- Plaintiffs note for the record that they do not agree with the positions or implied positions set forth in the two points above, and they expressly reserve all rights, and do not waive any arguments, related thereto;

WHEREAS, on March 11, 2024, counsel for Plaintiffs informed counsel for Chattem that Plaintiffs intend to file a Third Amended Complaint to add a new plaintiff (Daniel Magallanes) and

to include additional products;

WHEREAS, on March 14, 2024, the Parties, through their respective counsel, reached a mutual agreement to avoid a contested motion to amend; the Parties have agreed pursuant to Federal Rule of Civil Procedure 15(a)(2) that Plaintiffs may file a Third Amended Complaint on March 14, 2024; and the Parties have agreed that the deadline for Chattem to answer, move, or otherwise respond to Plaintiffs' Third Amended Complaint will be extended to 30 days after the filing of the Third Amended Complaint;

WHEREAS, this request for an extension of time will not affect any other currently scheduled dates previously set by the Court;

WHEREAS, this requested extension is not made for the purpose of delay, promotes judicial efficiency, and will not cause prejudice to the respective parties;

WHEREFORE, IT IS STIPULATED AND AGREED THAT pursuant to Federal Rule of Civil Procedure 15(a)(2), Plaintiffs may file a Third Amended Complaint by consent of the Parties on March 14, 2024; and

IT IS FURTHER STIPULATED AND AGREED THAT pursuant to Federal Rule of Civil Procedure 6(b) and Civil Local Rule 6-2, subject to the Court's approval, the following schedule shall apply to Chattem's answer, motion, or other response to Plaintiffs' Third Amended Complaint:

Deadline to File Third Amended Complaint: March 14, 2024

Chattem's Deadline to Answer, Move, or Otherwise Respond: April 15, 2024.

IT IS SO STIPULATED.

Date: March 14, 2024

DLA PIPER LLP (US)

By: /s/ Isabelle Ord
ISABELLE ORD

*Attorney for Defendant,
CHATTEM, INC.*

CROSNER LEGAL, P.C.

By: /s/ George V. Granade
GEORGE V. GRANADE

*Attorney for Plaintiffs,
MARK GONZALEZ and DONNIE WESLEY SR. and
the Proposed Class*

ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Date: 3/15/2024


HONORABLE HAYWOOD S. GILLIAM, JR.